

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

CLIFTON JONES,
Plaintiff

-vs-

HIGGINBOTHAM INSURANCE
AGENCY, INC., ALLIED
INSURANCE COMPANY OF
AMERICA, NATIONWIDE MUTUAL
INSURANCE COMPANY &
ALLIANCE INSURANCE SERVICES,
LLC, ALLIANCE INSURANCE
SERVICES, LLC,
Defendants

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A-22-CV-00890-JRN

ORDER

Before the Court in the above-entitled cause of action is the Report and Recommendation of United States Magistrate Judge Mark Lane regarding Plaintiff's Opposed Motion to Remand. This Court referred this cause to the United States Magistrate Judge for findings and recommendations. The Magistrate Judge filed his Report and Recommendation on July 27, 2023. *See* Dkt. No. 32. After a careful and thorough review of the case and the applicable law, the Magistrate Judge recommends that this Court **DENY** Plaintiff's Opposed Motion to Remand Based Upon a Lack of Subject Matter Jurisdiction (Dkt. #11) and further recommends that Defendants Alliance and Higginbotham be **DISMISSED** without prejudice. *Id.*

As noted, the Magistrate Judge issued his Report and Recommendation on July 27, 2023, and on the same date, both parties were served with copies of the Report and Recommendation by electronic means. The Magistrate Judge explicitly warned both parties in writing that a party's failure to file written objections within fourteen (14) days after being served with a copy of the


Report and Recommendation, bars that party, except on grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. Although Rule 72(b) of the Federal Rules of Civil Procedure requires parties to file objections within 14 days, Rule 6 extends this period by 3 days if service is *via* electronic means. *See* Fed. R. Civ. P. 6(d); *see also American Realty Trust, Inc. v. Matisse Partners*, No. Civ. A. 3:00–CV–1801, 2003 WL 22083516, at *1 n. 1 (N.D. Tex. 2003) (adding 3 days to the time period provided under Rule 72(b)). Accordingly, pursuant to 28 U.S.C. § 636(b), Rule 72(b), and Rule 6(d), the parties’ objections were due on or before August 10, 2023. However, as of the date of this Order’s issuance, the Court has yet to receive objections to the Magistrate’s Report and Recommendation. Consequently, the parties are not entitled to a *de novo* review by this Court. Having found no plain error, the Court will accept the Report and Recommendation of the Magistrate Judge for the reasons stated therein.

IT IS THEREFORE ORDERED that the Court hereby **ACCEPTS** the Report and Recommendation that the United States Magistrate Judge has filed in this cause.

IT IS FURTHER ORDERED that Plaintiff’s Opposed Motion to Remand Based Upon a Lack of Subject Matter Jurisdiction (Dkt. #11) is **DENIED**.

IT IS FINALLY ORDERED that Defendants Alliance and Higginbotham are **DISMISSED** without prejudice.

SIGNED this 14th day of August, 2023.



JAMES R. NOWLIN
SENIOR U.S. DISTRICT JUDGE